Single Bench

IN THE HIGH COURT OF JUDICATURE CHHATTISGARH AT BILASPUR

W.P.NO. 4086 / 2004

Petitioner : Smt. Sakuntala Mishra
W/o Prem Shankar Mishra
Aged about 44 years,
working as Clerk (Dispatch),
Municipal Council Kondagaon,
Dist : Bastar-(C.G.)

P.R. 4074/04
Presented by Shri ...
dated 25/10/04

Versus

Respondents :

1. State of Chhattisgarh
Through The Secretary
Department of Urban Administration & Development, Mantralaya, Raipur-(C.G.)

2. The Dy.Director
Urban Administration and Development,
Raipur, Dist : Raipur-(C.G.)

Clerk to A.G. Bilaspur

3. The Municipal Council Kondagoan
Through Chief Municipal Officer,
Kondagaon, Dist : Bastar-(C.G.)

4. The President Municipal Council,
Kondagaon, Dist : Bastar-(C.G.)

WRIT PETITION U/A 226 / 227 OF THE CONSTITUTION OF INDIA

1. Particulars of the Petitioner.
As per cause title.

2. Particulars of the Respondents.
As per cause title.

(64)

HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench: Hon'ble Mr. Justice **Satish K. Agnihotri.**

W.P. No. 4084 of 2004

Petitioner : Kamlu Ram Gawre

Versus

Respondents : State of Chhattisgarh & others

W.P. No. 4085 of 2004

Petitioner : Sameer Saha

Versus

Respondents : State of Chhattisgarh & others

W.P. No. 4086 of 2004

Petitioner : Smt. Sakuntala Mishra

Versus

Respondents : State of Chhattisgarh & others

W.P. No. 4087 of 2004

Petitioner : Manoj Jaiswal

Versus

Respondents : State of Chhattisgarh & others

W.P. No. 4088 of 2004

Petitioner : Shiv Shankar Sori

Versus

Respondents : State of Chhattisgarh & others

W.P. No. 4089 of 2004

Petitioner : Dinesh Sahu

Versus

Respondents : State of Chhattisgarh & others

65

W.P. No. 4090 of 2004

Petitioner : Sushant Dutta

Versus

Respondents : State of Chhattisgarh & others

W.P. No. 4091 of 2004

Petitioner : Khokhan Biswas

Versus

Respondents : State of Chhattisgarh & others

W.P. No. 4092 of 2004

Petitioner : Santosh Sahu

Versus

Respondents : State of Chhattisgarh & others

W.P. No. 4093 of 2004

Petitioner : Birjuram Sonber

Versus

Respondents : State of Chhattisgarh & others

W.P. No. 4094 of 2004

Petitioner : Ashok Shukla

Versus

Respondents : State of Chhattisgarh & others

W.P. No. 4095 of 2004

Petitioner : Hiralal Netam

Versus

Respondents : State of Chhattisgarh & others

66

Present : Shri Prafull Bharat, counsel for the petitioners.

Shri Arvind Dubey, Panel lawyer for the State.

ORAL ORDER

(1st August, 2006)

1. The present writ petitions, being Writ Petitions No. 4084/2004, 4085/2004, 4086/2004, 4087/2004, 4088/2004, 4089/2004, 4090/2004, 4091/2004, 4092/2004, 4093/2004, 4094/2004 and 4095/2004 involve common question of law as to regularization of the services of the petitioners. Thus, these petitions are being disposed of by this common order.

2. The petitioners are daily wagers appointed on 10.9.1991, 1.6.1986, 1.9.1986, 16.7.1984, 11.11.1993, 1992, 10.5.1990, 4.7.1986, 1990, 31.3.1990, 1.9.1983 and 16.7.1984 on various posts by Municipal Council, Kondagaon. The petitioners in all the petitions seek regularization of their services and further alternatively grant of regular pay-scale.

3. The Hon'ble Supreme Court in the matter of **Secretary, State of Karnataka and others Vs. Umadevi (3) and others** reported in **(2006) 4 SCC 1** has clearly held that absorption, regularization, or permanent continuance of temporary, contractual, casual, daily-wage or ad hoc employees appointed/recruited and continued for long in public employment dehors the constitutional scheme of public employment create another mode of public employment which is not permissible. In the present case the petitioners are daily wagers and are not appointed in accordance with law and as per the constitutional scheme of the public employment. Thus they do no acquire any

67

right for regularization or for grant of regular pay-scale. Further the Hon'ble Supreme Court in the matter of Secretary, State of Karnataka Vs. Umadevi and others (supra) in paragraph-53 directed as under:-

> Para 53. " The question of regularization of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases abovereferred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularize as a one-time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of the courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularization, if any already made, but not sub judice, need not be reopened based on this judgment, but there should be no further bypassing of the constitutional requirements and regularizing or making permanent, those not duly appointed as per the constitutional scheme."

4. In view of the above stated directions of the Hon'ble Supreme Court, the respondents are directed to comply with the order of the Supreme Court as one-time measure in the cases of the petitioners. All these petitions are accordingly disposed of. No order as to costs.

5. A copy of this order be placed in the record of all the connected writ petitions.

Certified copy as per rules.

Sd/-
Satish K. Agnihotri
Judge